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Materials for

RACE AND CULTURAL DIFFERENCE

(Bridge Week, February 24-27, 1992)

Faculty of Law

University of Toronto

Compiled by: Craig Scott

Aided and Abetted by
Suggestions and Contributions From:

Martha Shaffer
Denise Reaume
Nitya Duclos
John Borrows
Michael Trebilcock
Audrey Macklin
Gary Yee
Lorraine Weinrib
Emilio Binavince
Lilian Ma
Sherene Razack
Michelle Williams
Kent Roach
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Jonathan Rudin
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RACE AND CULTURAL DIFFERENCE BRIDGE:
MATERIALS - TABLE OF CONTENTS

READING INSTRUCTIONS: Readings annotated with an '*' are those which most closely tie into lectures or lecture themes; these are your 'required' readings. As well, following your own interests, you are asked to read as much of the remaining material as possible.

Please try to read all, or most of, the required reading prior to the actual Bridge week so that you will leave yourself the option of attending some of the films being planned for Monday evening, Tuesday afternoon and Wednesday evening.

Also, please note that, for Wednesday afternoon's discussion group, you should be prepared to discuss the recommendations found in Ch. 7, "Aboriginal Justice Systems", of the Manitoba Inquiry (starts at p.203).

Monday, Feb. 24:

* Nitya Duclos, "Lessons of Difference: Feminist Theory on Cultural Diversity" (1990) 38 Buffalo Law Review 325 [excerpts; footnotes omitted] 1

* Martha Minow, "Foreword: Justice Engendered" (1987) 101 Harvard Law Review 10 [excerpts; footnotes omitted] 10

* John Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy" in Getty and Lussier, eds., As Long As the Sun Shines and the River Flows (Vancouver: UBC Press, 1979) 18

* Leslie Hall Pinder, The Carriers of No: After the Land Claims Trial, Discussions About Law #2, (Vancouver: Lazara Press, 1991) 26

Frank Cassidy and Robert Bish, Indian Government: Its Meaning in Practice (Lantzville: Ooolichan, 1989) 29-50 34

Michael Trebilcock, The Limits of Freedom of Contract, excerpts from Ch. 9, "Discrimination" [forthcoming] 46

* Ninette Kelly and Michael Trebilcock. Excerpts on history of Canadian immigration law and policy from Liberty and Community in the Evolution of Canadian Immigration Policy (Research Proposal), Oct. 30, 1990 51

* An Act to regulate the Chinese population of British Columbia, 47 Vict., 1884, c.4 57

* An Act to Prevent the Employment of Female Labour in Certain Capacities, S.S. 1912, c.17 58

Chinese Canadian National Council, It is Only Fair! Redress for the Head Tax and Chinese Exclusion Act (1988) 59

* Irving Abella and Harold Troper, None is Too Many: Canada and the Jews of Europe, 1933-1948 (Toronto: Lester and Orpen Dennys Limited, 1986) 66

* Makeda Silvera, Silenced: Talks with working class Caribbean women about their lives and struggles as Domestic Workers in Canada (Toronto: Sister Vision, Black Women and Women of Colour Press, 1989), "Savitri", 45-51 69

Tuesday, Feb. 25:

* Derrick Bell, And We Are Not Saved: The Elusive Quest for Racial Justice (New York: Basic Books, 1987), ch.6, "The Unspoken Limit on Affirmative Action: The Chronicle of the DeVine Gift", 140-161 73

* Randall Kennedy, "Racial Critiques of Legal Academia" (1989) 102 Harvard Law Review 1745 [excerpts; footnotes omitted] 84

* Vic Satzewich, "The Political Economy of Race and Ethnicity" in Peter Li, ed., Race and Ethnic Relations in Canada (Toronto: Oxford University Press, 1990) [excerpts; footnotes omitted] 96

* Caroline Ramozanoglu, Feminism and the Contradictions of Oppression (London: Routledge, 1989) 117-124 [footnotes omitted] 99

Teresa Scassa, Language Dominance and the Law (Working Title of S.J.D. Dissertation-in-progress, University of Michigan Faculty of Law), excerpts from Ch. 3, "Language Discrimination" (January 6, 1992 draft) 104

"The Minority Advocacy Rights Council (MARC)" (1991) 3 Infoshare 17 114

* Gerald L. Gall, "Multiculturalism and The Canadian Charter of Rights and Freedoms: The Jurisprudence to Date under Section 27" in Lillian Ma, Emilio Binavince, Duncan Boswell, and Gerald Gall, Taking Stock: The Jurisprudence on the Charter and Minority Rights (Ottawa: The Canadian Ethnocultural Council, 1991) 73-186 [excerpts] 115

Emilio Binavince, "The Ethnic Minorities and Canada's Future" (1991) 3 Infoshare 8 131

* Catherine MacKinnon, "Breaking New Ground: LEAF's (Women's Legal Education and Action Fund) Theory of Equality" (1991) 3 Infoshare 34 134

Sherene Razack, "Speaking for Ourselves: Feminist Jurisprudence and Minority Women" (1990-1991) 4 Canadian Journal of Women and the Law 440 135

* Sherene Razack, "Exploring the Omissions and Silences in Law Around Race", Paper Presented to the Research Consultation on How to Study Gender Bias in the Law, the Courts and the Legal Profession, Nov. 1-2, 1991, Simon Fraser University, Vancouver 141

* Joanne St. Lewis, "Meeting at the Crossroads: Judicial Decision-Making in a Racially Sensitive Context" (1991) 3 Infoshare 14 152

* Jerome E. Birkenbach, "Lawyers, Law Professors, and Racism in Ontario" (19--) Queen's Quarterly 585 155

* Brian Etherington, W.A. Bogart, Maureen Irish and George Stewart, 'Preserving Identity by Having Many Identities': A Report on Multiculturalism and Access to Justice (1991) [Executive Summary] 158

Wednesday, Feb. 26:

* Justices Hamilton and Sinclair, Report of the Aboriginal Justice Inquiry: The Justice System and Aboriginal People, Vol. 1 (Manitoba, 1991), chapter 2, "Aboriginal Concepts of Justice", 17-46 168

Justices Hamilton and Sinclair, Report of the Aboriginal Justice Inquiry: The Justice System and Aboriginal People, Vol. 1 (Manitoba, 1991), Introduction 184

Justices Hamilton and Sinclair, Report of the Aboriginal Justice Inquiry: The Justice System and Aboriginal People, Vol. 1 (Manitoba, 1991), chapter 4, "Aboriginal Over-Representation", 85-113 [excerpts] 184

David Roberts, "Native convicts share fears, dreams at 'parallel' constitutional hearings" (Jan. 30, 1992) Globe and Mail A6 186

* Fran Sugar, "Entrenched Social Catastrophe: Native Women in Prison" (1989) 10/2 & 3 Canadian Woman Studies 87 187

* Justices Hamilton and Sinclair, Report of the Aboriginal Justice Inquiry: The Justice System and Aboriginal People, Vol. 1 (Manitoba, 1991), chapter 13, "Aboriginal Women", 475-507 189

Alan Grant, Michael Bader, and Dennis Cromarty, Report of the Osnaburgh-Windago Tribal Council Justice Review Committee (July 1990) [excerpts 117-118, 10-13, 72-81] 196

* Justices Hamilton and Sinclair, Report of the Aboriginal Justice Inquiry: The Justice System and Aboriginal People, Vol. 1 (Manitoba, 1991), chapter 7, "Aboriginal Justice Systems", 310-336 203

* Daniel Russell, "The Aboriginal Justice Inquiry of Manitoba and the United States Tribal Court Experience" [forthcoming (July 1992) University of Windsor Yearbook of Access to Justice; not fully edited] 217

David Shoalts, "Natives value justice differently" (Sept. 9, 1991) Globe and Mail A1 229

Rudy Platiel, "Native justice system urged: Law commission suggests short-term changes to respond to aboriginal needs" (Dec. 12, 1991) Globe and Mail A7 230

David Roberts, "Separate native justice rejected for Manitoba: Changes promised in trials, judges" (Jan. 19, 1992) Globe and Mail A1 231

David Roberts, "Saskatchewan moves toward native justice: Government accepts recommendation for separate system" (Feb. 1, 1992) Globe and Mail A4 232

* Statement of Political Relationship (Between the Government of Ontario and the First Nations), Signed August 1991 233

* Jonathan Rudin, "Alternative Dispute Resolution Systems for Native People Without a Land Base", Ch. IX in Jonathan Rudin and Daniel Russell, Native Alternative Dispute Resolution Systems: The Canadian Future Out of the American Past (Toronto: Ontario Native Council on Justice, 1991) [forthcoming] 234

Thursday, Feb. 27:

* Craig McInnes, "Urban natives fear self-rule will leave them out in the cold" (Dec. 27, 1991) Globe and Mail A1 239

* Rodney Bobiwash, Self-Government Committee Report, October 5, 1991 (Native Canadian Centre of Toronto) 241

* Recognition and Support Form, Toronto Urban Self-Government Initiative 247

* Will Kymlicka, "Liberalism and the Politicization of Ethnicity" (1991) 4 Canadian Journal of Law and Jurisprudence 239 [footnotes omiited] 239

Susan Delacourt, "'Exclusion' complicates conference on Senate: Women, natives demand equal representation" (Jan. 27, 1992) Globe and Mail A1 261

Philip van Niekerk, "Rulers prepare to surrender power" (Feb. 1, 1992) Globe and Mail A10 263

General Interest

Rick Salutin, "Loose Canons" (Dec. 1991) Saturday Night 20 264

Rosa Ehrenreich, "What Campus Radicals? The P.C. Undergrad is a useful specter" (Dec. 1991) 283 Harper's 57 269

Jennifer Lewington, "Schools woo ethnic instructors" (Dec. 9, 1991) Globe and Mail A1 273

Randall Kennedy, "In Praise of the Struggle for Diversity on Law School Faculties" (1991) The University of Chicago Law Forum 1 [excerpts; footnotes omitted] 275

Special Advisory Committee to the Canadian Association of Law Teachers (Tariq Alvi, Rose Boyko, Lilian Ma, Wade MacLauchlan, Trish Monture, Yvonne Peters, and Joanne St. Lewis), Equality in Legal Education...Sharing a Vision...; Creating the Pathways... (June 2, 1991), Part III, "Moving Forward", 13-29 282

Final Report of the [U of T] Special Committee on Student Societies and Human Rights, Sections I and III, February 15, 1991 ['McCartan Report'] 291